

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF DUKE ENERGY)	
CORPORATION, CINERGY CORP., DUKE)	
ENERGY OHIO, INC., DUKE ENERGY)	CASE NO.
KENTUCKY, INC., DIAMOND ACQUISITION)	2011-00124
CORPORATION, AND PROGRESS ENERGY,)	
INC. FOR APPROVAL OF THE INDIRECT)	
TRANSFER OF CONTROL OF DUKE ENERGY)	
KENTUCKY, INC.)	

O R D E R

On August 19, 2011, Duke Energy Corporation (“Duke”), Cinergy Corp., Duke Energy Ohio, Inc. (“Duke Ohio”), Duke Energy Kentucky, Inc. (“Duke Kentucky”), Diamond Acquisition Corporation, and Progress Energy, Inc. (collectively “Applicants”) filed, pursuant to KRS 278.400, a petition requesting a rehearing of the Commission’s August 2, 2011 Order conditionally approving the indirect transfer of ownership and control of Duke Kentucky. The Order was made conditional upon the Applicants filing written acknowledgements that they accept, and agree to be bound by, the 49 commitments set forth in Appendix B to that Order.

The Applicants’ petition for rehearing states that they accept and agree to be bound by 48 of the 49 commitments set forth in Appendix B to that Order, but that they are unable to fully comply with commitment No. 48, relating to the composition of Duke’s post-merger Board of Directors. Thus, they request a rehearing for the

limited purposes of having the Commission revise and clarify the wording of commitment No. 48, which provides as follows:

48. Joint Applicants commit that for as long as Duke's post-merger operations include regulated utility service in Kentucky, Duke's post-merger Board of Directors will include at least one non-employee member who is a customer of either Duke Kentucky, Duke Ohio, or Duke Energy Indiana.

The Applicants further state that they share the Commission's underlying objective to be achieved by this commitment, which is to ensure that Board members are knowledgeable about the utility's level of service within its territorial boundaries. However, the Applicants assert that this commitment, as now worded, significantly complicates their merger transaction, could cause unnecessary disruption to Duke's corporate governance, and could result in Duke's unintended violation of the terms of the commitment. The applicants suggest revisions to the commitment which they believe will accommodate their legitimate concerns while preserving the purpose and intent of the commitment.

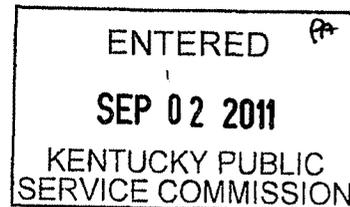
Based on the petition for rehearing and being otherwise sufficiently advised, the Commission finds that Commitment No. 48 was established to ensure that Duke's post-merger Board included at least one Director who is a customer of one of Duke's three Midwest utilities. As we noted in our August 2, 2011 Order, at pages 9-10, Duke's Midwest customers now account for almost 45.5 percent of Duke's regulated service, but, post-merger, they will represent only 26.6 percent. That sizable reduction in the percentage of Midwest regulated operations created the need to ensure that at least one member of Duke's post-merger Board possesses

first-hand, personal knowledge of the issues and concerns facing customers of Duke's Midwest utilities.

The Applicants' petition for rehearing sets forth certain allegations which, if proven, may support some revision to Commitment No. 48. To afford the Applicants a full opportunity to demonstrate the need for a revision, and to allow the Commission adequate time to consider the merits of the issues raised, we find good cause to grant a rehearing of the August 2, 2011 Order. We will schedule an informal conference in the near future for the purposes of establishing a procedural schedule for processing this rehearing and discussing and refining the issues.

IT IS THEREFORE ORDERED that the Applicants' petition for rehearing of the August 2, 2011 Order is granted.

By the Commission



ATTEST:

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